RAJYA SABHA

Wednesday, the 26th February, 1997/ 7th Phalguna, 1918 (Saka)

The House met at eleven of the clock, Mr. Chairman, in the Chair.

ORAL ANSWERS TO QUESTIONS

Recommendations of the Standing Committee of the Inter-State Council on Article 356

*61. SHRIMATI VEENA VERMA†:
SHRI SUSHILKUMAR SAMBHAJIRAO SHINDE:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the Standing Committee of the Inter-State Council considered the question of retention or revision of Article 356 of the Constitution and the mode for its enforcement in January this year;

(b) if so, the main observations and suggestions made at this meeting; and

(c) Government's response thereto?

THE MINISTER OF HOME AFFAIRS (SHRI INDRAJIT GUPTA): (a) to (c) A Statement is laid on the Table of the House.

Statement

(a) to (c) One of the items included in the agenda for the first meeting of the Standing Committee of the Inter-State Council held on January 15, 1997 was 'Emergency Provisions'. The opinion on the subject was divided. One viewpoint was that article 356 should be deleted from the Constitution of India. The other viewpoint was that this article should be retained but should be suitably amended so as to provide adequate safeguards to prevent its misuse. Considering the difference between the two viewpoints that emerged during the discussions, the members were requested to communicate their views and suggestions in the matter, in writting, so that these could be compiled and placed before the next meeting of the Standing Committee. The matter will be discussed further by the Standing Committee.

SHRIMATI VEENA VERMA: Sir, Dr. B.R. Ambedkar, the Father of the Constitution, had made the intention of its framers abundantly clear that the provisions of artilce 356 regarding imposition of President's Rule would be exceptional and may be invoked sparingly as a last resort. He expressed the hope that these provisions would never be called into operation and might remain only a dead letter. What actually has happened however is that these provisions have been used very frequently and, to be precise, as many as 80 times. The blatant misuse of this article started mainly in 1977-78 when the Janata Party Government came to power. At that time a number of State Governments were dismissed at a stretch. Not recalling the whole sequence, the continuance of President's Rule...(*Interruptions*)...

MR. CHAIRMAN: You please put your question. ...(*Interruptions*)...Do not read out any statement. ...(*Interruptions*)...

SHRIMATI VEENA VERMA: No, Sir, I am not reading out. ...(*Interruptions*)... Sir, it is necessary to go a bit deeper into the history of this aspect. ...(*Interruptions*)...

MR. CHAIRMAN: You put your question. ...(*Interruptions*)...

SHRIMATI VEENA VERMA: Sir, I am putting my question. Sir, it was for the first time that the President's rule was reimposed and not extended. It is an innovation which has been held unconstitutional by a full-Bench of the Allahabad High Court. It was preceded by an equally divided verdict by a two-Judge Bench. Sir, I would like to know whether the Standing Committee of the

†The question was actually asked on the floor of the House by Shrimati Veena Verma

Inter-State Council has recommended any interim measures in this regard. You have mentioned some measures to extricate the Government from this present situation. If so, what are those measures and how long will this Government continue? ...(*Interruptions*)... Sir, what I want to ask is how long this situation will continue in Uttar Pradesh ...(*Interruptions*)... I am not asking about this Government. ...(*Interruptions*)...

SHRI INDRAJIT GUPTA: Sir, this part of the hon. Member's question as to how far this present situation in Uttar Pradesh will continue is beyond may capacity to answer.

It depands on so many factors into the details of which I do not want to go just now. It is not part of the original question. As far as article 356 is concerned, it was one of the principal items which were discussed in the Inter-State council's meeting and later on in the meeting of the Standing Committee of the Inter-State Council on 15th January.

There was a very comprehensive discussion. As hon. Members may know, the Standing Committee includes five or six Chief Ministers who represent different political parties in this country. All the major parties are represented in this committee. We have got a cross-section of opinion there though, perhaps, it is known that there was a division or difference of opinion regarding Article 356 of the Constitution. Some hon. Members held a view that Article 356 should be deleted from the Constitution and some other hon. Members held a view that it should not be deleted but it should be drastically amended so as to provide some safeguard against its misuse. So, all these different proposals and suggestions have been taken into account. These are being properly processed. The next meeting of the Standing Committee is scheduled to be held within the next two months and it will again go into the whole question and see whether any consensus could be reached. After that, the whole matter will again be referred to the full Inter-State Council and the Inter-State Council will deal with various proposals and opinions. After that, we will come before the House with a comprehensive statement on that as to what should be done.

SHRIMATI VEENA VERMA: It is not only a matter of law and order problem but also it is a matter of political unrest since it has contributed to a situation of suspense in Uttar Pradesh and democracy not being allowed to function as the Assembly was kept under suspended animation. The hon. Home Minister himself has said that Uttar Pradesh is heading for anarchy and destruction. If the situation is so serious, I wanted to know from the Government whether it will refer this case again to the Inter-State Council. Or, who will take the last step to restore the peace and harmony in the Assembly or the State Government rule? Who will take the last step?

SHRI INDRAJIT GUPTA: Sir, if the hon. Member is asking for my opinion, I would say that the first step has to be taken collectively by all the different political parties and forces in the State. If they do not have the will or the determination to act collectively in restoring the rule of an elected Ministry there, then I am afraid, it is very difficult to say, at this moment, what is going to happen and how long it will take.

SHRIMATI VEENA VERMA: Sir, since it is a question of political will, who will take the decision because already a meeting of the Inter-State Council took place?

MR. CHAIRMAN: The Minister has already answered who has to take the decision. It has to be a collective one.

श्री सुन्दर सिंह भंडारी: सभापति जी, धारा-356 की चर्चा हो रही है और मैं यह स्वीकार करता हूं कि जो कमेटी इस पर विचार कर के और विभिन्न दलों का समावेश कर के एक सोचा-समझा हुआ रास्ता निकालेगी, उस में अभी समय लगेगा। मेरा यह निवेदन है कि 356

लागू होने के बाद उस राज्य में कोई परिस्थिति निर्मित होती है और अगर वहां के नागरिकों का जीवन व सुरक्षा खतरे में है, स्टेट फंक्शनिंग बंद हो गयी है तो फिर क्या केन्द्र के गृह मंत्री को इस में हस्तक्षेप कर के वहां परिस्थिति ठीक करने के लिए कोई उपाय सोचने की विधान में गुंजाइश है या इस के लिए भी कोई हाई-पावर कमेटी बिठाकर उन को इस बात के लिए अथाराइज किया जाय तब वह इस में काम लेंगे? महोदय, एक बार 356 में राज्य दे दिया गया तो जो गवर्नर है, वही एकमात्र अथारिटी है या सेंटर का होम मिनिस्टर इस में इंटरवीन कर के वहां शांति और व्यवस्था निर्मित हो, इस के लिए कोई उपाय सुझा सकता है?

SHRI INDRAJIT GUPTA: Sir, I suppose the situation in Uttar Pradesh is a matter of grave concern to everybody in this country. How this situation has come about and why this is continuing may, of course, be open to different interpretations. What I said in the other House may be interpreted in this House in a particular way which I don't agree with. But I believe there is going to be a debate, a discussion in both the houses on Motions which have already been moved. I hope the matter will be discussed by all Members, including Members from the Government side.

The Governor is not a sort of superconstitutional authority. He is appointed by the Central Government. He is an appointee of the Central Government. And nowhere is it laid down that once he is appointed, he is free to do whatever he likes. But, Sir, the question of the Centre intervening in a situation is something which requires more consideration and we are in the process of discussing as to how we should do it. Certainly, at the moment we have restricted ourselves to advising the Governor, persuading the Governor to take certain steps or not to take certain steps. He is in constant touch with us and we are communicating with him. I am hopeful that the situation may improve marginally, as far as the administration of the State goes. After all, the Governor is concerned primarily with the administration of the State. But I have to say that the administration is not in a very happy state. The reasons for that may be more than one which I do want to dilate on just now. When I get an opportunity to speak on the discussion on the Motion of the hon. Members, I will certainly try to dwell on this in much detail. At the moment, we have no proposal for any more direct intervention. I don't know what sort of Central intervention the hon. Member has in mind. At the moment, as I said already, we are constantly watching the situation, communicating with the Governor, obtaining reports from him and giving him our suggestions and proposals on how to deal with the situation.

SHRI SUNDER SINGH BHANDARI: But you have the power to intervene. Has the Constitution restricted you from direct intervention? What is the position?

SHRI AJIT P.K. JOGI: He is the ruler and he calls the position 'anarchy'. This is very peculiar. Mr. Home Minister, you are the administrator; you are the ruler there. Then, how can you say that there is anarchy?...*(Interruptions)*...

SHRI SUNDER SINGH BHANDARI: Mr. Home Minister, you have the power to directly intervene in the matter. But you are just suggesting to the Governor, advising the Governor. My point is, is not the Constitution authorising you to intervene and set matters right?

SHRI INDRAJIT GUPTA: It depends on what you mean by the term intervention'.

SHRI SUNDER SINGH BHANDARI: You are saying that you are not inclined to intervene. You said that...*(Interruptions)*...

SHRI INDRAJIT GUPTA: The forms of intervention may be different. But I find that many Members are publicly demanding that the Governor should be changed. That seems to be the idea behind the demand for Centre's

intervention. Perhaps that is the opinion. I feel that by simply changing the Governor, the situation in UP may not be rectified or improved.

SHRI SUNDER SINGH BHANDARI: But it makes a lot of difference.

श्री विष्णु कान्त शास्त्री: उत्तर प्रदेश में इस राज्यपाल के बने रहने से स्थिति और संगीन हो जाएगी। आप यह स्वयं स्वीकार कर रहे हैं कि यह राज्यपाल नितान्त निकम्मा और अनुचित है।

श्री इन्द्रजीत गुप्त: मैंने यह नहीं कहा है। ...(व्यवधान)

MR. CHAIRMAN: Shastriji, you have not been called to speak. Please sit down...*(Interruptions)*...

SHRI INDRAJIT GUPTA: Mr. Chairman, Sir, I have never made any such allegation or charge against the present Governor. That he is a *nikamma* or something else, I have not said. That may be the opinion of some Members which they are entitled to hold.

MR. CHAIRMAN: Now, Shri Vizol.

SHRI VIZOL: Mr. Chairman, Sir, thank you for giving me the time to speak on article 356. For the information of the House, I would like to share with the House my own experience in respect of article 356. I don't have any prejudice against anybody or any party. But this is my experience about article 356. This article has been abused several times in the past by the party in power at the Centre. It has been used to engineer defections in the party ruling in the State. This article has been used to engineer defections and, consequently, to dismiss the party Governments in the State. For example, Sir, since Nagaland attained Statehood, since the last thirty-four years, a regional party came to power three times there. Out of this, on two occasions, the regional party Government was dismissed, by using this article by the centre.

Sir, this is related to the question of defection also. Defection and article 356 are related. Now, if this article is to be retained, I think there should be an appropriate legislation which imposes a blanket ban on defections. Defection should be banned because it degrades national life; it degrades individual life.

MR. CHAIRMAN: Please conclude by putting your question.

SHRI VIZOL: This is the observation I want to make for the information of the House.

SHRI M.A. BABY: The question is whether it is correct or not?

श्री एस०एस० अहलुवालिया: सभापति महोदय, आर्टिकल 356 के बारे में अभी मंत्री महोदय ने बताया, इस अनुच्छेद को शक्ति देने के लिए या इसमें परिवर्तन लाने के लिए संविधान में काफी संशोधन किए गए जैसे सातवां संशोधन, अड़तीसवां संशोधन, बयालीसवां संशोधन, चवालीसवां संशोधन, सड़सठवां संशोधन आदि। आज जो दल सत्ता में बैठा है, यह शुरू से मांग करता आया है कि इसको ऐबोलिश किया जाए। आज यू०पी० का सवाल हमारे सामने है। यदि इस सवाल को हम मद्देनज़र रखें तो गृह मंत्री ने खुद कहा है कि वहां टोटल ऐनार्की है, टोटल लॉलैसनैस है। अनुच्छेद 356 यह स्पष्ट करता है कि गवर्नर की रिपोर्ट पर ही आर्टिकल 356 इनवोक किया जा सकता है राष्ट्रपति द्वारा। और आज गवर्नर के खिलाफ सब लोग बोल रहे हैं और ये खुद स्वीकार कर रहे हैं कि उस गवर्नर के अधीन राज्य में ये हालात है और उसी गवर्नर की रिपार्ट का विश्वास भी कर रहे हैं। तो मेरा आपसे कहना यह है कि इस अनुच्छेद को लागू करने पर विचार करना चाहते हैं तो आप पहले अपने विवेक की रिपोर्ट पर विश्वास करिए। आप उस पर कोई कार्यवाही करने के लिए तैयार हैं या नहीं? गवर्नर की रिपोर्ट पर अगर आपने पुनः अनुच्छेद 356 लागू किया तो यह उसका दुरूपयोग होगा।

श्री इन्द्रजीत गुप्त: सवाल क्या है?

श्री एस०एस० अहलुवालिया: आप क्या करना चाहते हैं? आप अपने विवेक के द्वारा 356 विदड्रा करना चाहते हैं या उसे कंटीन्यू करना चाहते हैं? सवाल तो यही है। सवाल तो आपके सिर के ऊपर से निकलता है क्योंकि वह समझ में नहीं आता। आप कहते कुछ हैं और करते कुछ हैं।

SHRI INDRAJIT GUPTA: Sir, article 356 is in force in the State of Uttar Pradesh by a Presidential Proclamation

which has been approved by both Houses of Parliament. This is the position at the moment. Therefore, if any change is to be brought about in the status of his Proclamation of the President, obviously, it cannot be done just by the Home Minister or somebody making a statement.

SHRI S.S. AHLUWALIA: You depend on the Governor's report!

SHRI INDRAJIT GUPTA: A reference has been made by the hon. Member—wrongly, as usual—saying that the parties which are ruling now at the Centre—I presume, he referred to the partners of the United Front—were, previously, very vocal demanding the repeal of article 356.

I don't know what "previously" means—I am not going into history. But the point is, all these parties which are constituents of the United Front are presently guided by the Common Minimum Programme of that Front, to which all those parties and constituents have subscribed. And what does the Common Minimum Programme say on this point? I am quoting: "Scope of article 356 of the Constitution has been interpreted and circumscribed by recent decisions of the Supreme Court. Article 356 will be amended to reflect these decisions and to prevent the misuse of that article. "This is what the Common Minimum Programme has stated, and we are being guided by that, and in due course we will certainly inform Parliament as to what steps we propose to take either by way of amendment or any other action which may be considered necessary.

MR. CHAIRMAN: Shrimati Kamla Sinha.

SHRI S.S. AHLUWALIA: Sir, I asked a specific question—whether, for revoking article 356, he is depending upon the report of the Governor, whom everybody is suspecting.

MR. CHAIRMAN: The Governor's report need not be accepted in toto. It is the discretion of the Government. Yes, Shrimati Kamla Sinha.

SHRI S.S. AHLUWALIA: Then why comment on the law and order situation in U.P.?

SHRIMATI KAMLA SINHA: Sir, most of my questions have already been answered. I just want to know what safeguards the Government wants to take through article 356 against the aberrations that take place in some States, as we see in Uttar Pradesh and which has been mentioned by many of my colleagues. The founding fathers of the Constitution had enshrined this article as a safeguard for the States for controlling aberrations and violations of the constitutional provisions by the State authorities or State Governments. So, what is the Government going to do about it? How to control the aberrations that we see? Since the last 15, 20 years we have been seeing aberrations taking place in almost all the States. How is the Government trying to control the situation?

SHRI INDRAJIT GUPTA: This question, Sir, is, of course, a very, very relevant and a very basic question because all the parties which are represented in Parliament have passed through the experience of promulgation of article 356 in some State or the other, at one time or another. On 95 occasions this promulgation has been done since the article was first brought into operation. And each time there are, of course, accusations by various parties that it is being used or misused in order to suit the political purposes of the party in power. So, when the hon. Member wants to know what will be done to remove this kind of aberration—there is no doubt that there has been misuse and abuse on many occasions, and not by one party alone—now there are a number of safeguards suggested both by Mr. Sarkaria and by the Supreme Court, which we are studying. I can't go into all those details just now. Very valuable suggestions have been made and we would welcome any other proposals and suggestions, specific suggestions which any Member would like to help the Government with by

proposing them. And I don't see that those safeguards will automatically bring about a 100 per cent change in the situation, but they would go a long way towards safeguarding against the arbitrary use of this article.

62. *[The Questioner (Shri Brahmakumar Bhatt) was absent, for answer vide Col.....in pra]*

Production/Export estimates of Cotton

*63. DR. SHRIKANT RAMCHANDRA JICHKAR:† SHRI V. RAJESHWAR RAO:

Will the Minister of TEXTILES be pleased to state:

(a) the estimate of total production of cotton in our country in the current year;

(b) out of this, the estimates for export;

(c) the average prices given in various States and how do they compare with the price under the Maharashtra Cotton Scheme; and

(d) the steps being taken to give remunerative prices to cotton growers?

THE MINISTER OF TEXTILES (SHRI R. L. JALAPPA): (a) to (d) A Statement is laid on the Table of the House.

Statement

(a) The Cotton Advisory Board in its meeting held on 24th February, 1997 has estimated the total production of cotton in the country in the 1996-97 cotton year to be 160 lakh bales (170 kg. each)

(b) Export quotas for cotton are announced by Government after taking into consideration all relevant factors, including estimates of production, availability, consumption by the mills, small spinners and non-mill sector, likely surplus, prices trends etc. Government endeavours to balance the interests of the cotton growers on the one hand and on the other, the cotton consuming sectors, particularly the decentralised handloom weavers. So far an export quota of 12.20 lakh bales of cotton has been released by Government during the current cotton season (1996-97). In addition, a spill-over quantity of 6.90 lakh bales (approx) from the 1995-96 quota has also been permitted for export upto 28.2.97.

(c) The relevant information is as follows:

Comparison of Maharashtra Kapas Price Vis-a-Vis other States as on 14.2.97 or there about (Cotton Year 1996-97)

S.No.	Maharashtra Variety	Kapas price Price (Rs/Qtl) in Maharashtra	Equivalent variety in other States	State where grown	Price Range (Rs/Qtl) in other States
1	2	3	4	5	6
1.	NHH-44	1975	F-414	Punjab Haryana	1820-1830
2.	LRA-5166	2000	LRA	MP	1825-1660

† The question was actually asked on the floor of the House by Dr. Shrikant Ramchandra Jichkar.